

Application No. 09/840,399  
Amendment in response to February 7, 2005, Action

Attorney's Docket No. 0119-117

### REMARKS

Claims 1, 3-16, and 18-31 are pending. The independent claims 1, 16, 30, and 31 and dependent claims 3-15 and 18-29 have been amended. Claims 2 and 17 have been canceled.

Claims 1, 13, 16, 30, and 31 were rejected under 35 U.S.C. § 102(e) for anticipation by U.S. Patent No. 6,646,995 to Le Strat et al. ("Le Strat"). Claims 3, 4, 14, 15, 18, 19, 28, and 29 were rejected under 35 U.S.C. § 103(a) for obviousness over a combination of Le Strat and U.S. Patent No. 6,724,737 to Boyden et al. ("Boyden"). Claims 5-10 and 20-25 were rejected for obviousness over a combination of Le Strat and U.S. Patent No. 6,545,990 to Amalfitano et al. ("Amalfitano"). Claims 11, 12, 26, and 27 were rejected for obviousness over a combination of Le Strat and U.S. Patent No. 5,416,787 to Kodama et al. ("Kodama").

It is submitted that the rejections have been rendered moot by this Amendment, which has revised all of the independent claims and some of the dependent claims in a manner that clarifies the differences between the claimed subject matters and the cited documents, in particular Le Strat.

The amended claims describe subject matters in which the start of a group of symbols in an information stream is more robust than the end of the group, and the decreasing robustness from the start to the end follows a pattern or function. Such operation is explained in paragraphs 39 and 40 of the application, as well as by FIGs. 4-8 and their descriptions. In addition, the amended claims describe subject matters in which signaling information that indicates the decreasing robustness is omitted from the information stream. This feature is described in paragraphs 40, 52, and 56 of the application, for example, and has the particular advantage of reducing communication overhead.

Le Strat does not describe groups of symbols having robustness levels that decrease according to a predetermined pattern because such an arrangement would not have solved Le Strat's problem, which is coping with the unpredictable changes in a mobile transmission channel. See Le Strat, col. 2, ll. 16-22. Predetermined patterns are antithetical to unpredictable changes.

Application No. 09/840,399  
Amendment in response to February 7, 2005, Action

Attorney's Docket No. 0119-117

This leads to another important difference between Le Strat and the claimed subject matters. Instead of using a predetermined pattern for its robustness changes, Le Strat explicitly discloses including signaling information that indicates the changes. See Le Strat, col. 9, ll. 47-49; col. 11, ll. 6-8; FIG. 10, block 107. This is not surprising because Le Strat's changes must be as unpredictable as the transmission channel, and thus signaling is necessary. Such signaling is omitted in the subject matters claimed.

Simply stated, the other cited documents, Boyden, Amalfitano, and Kodama, do not disclose those features that are absent from Le Strat.

The pending dependent claims also recite other features that are not described by any of the cited documents. For example, claims 14, 15, 28, and 29 provide for changes in robustness level to occur even within single packets. Such operation is described in the application in paragraphs 55-56 and FIG. 6, for example.

Accordingly, the pending claims as amended are not subject to rejection for anticipation because Le Strat does not disclose all of the elements of the pending claims. Moreover, the pending claims as amended are not subject to rejection for obviousness because Le Strat in combination with Boyden, Amalfitano, and/or Kodama is insufficient to support a *prima facie* case of obviousness, which also requires disclosure of all of the features of the pending claims as amended.

It is also believed that Le Strat, Boyden, Amalfitano, and/or Kodama would not have supplied any motivation to combine them as suggested by the Action and that there would have been no reasonable expectation that such complex documents could have been successfully modified to yield working methods and devices as claimed. In view of the significant differences between the subject matter claimed and Le Strat, Boyden, Amalfitano, and Kodama, it is believed unnecessary to discuss these other two requirements of a *prima facie* case in detail.

It is respectfully submitted that all of the claims are allowable, and an early Notice to this effect is respectfully solicited. If the Examiner has any questions, the undersigned attorney may be telephoned at the number given below.

Application No. 09/840,399  
Amendment in response to February 7, 2005, Action

Attorney's Docket No. 0119-117

The Office will note that a Power of Attorney to Prosecute Applications and a Change of Correspondence Address were filed on March 11, 2005.

Respectfully submitted,



Michael G. Savage  
Registration No. 32,596

Filed May 9, 2005

Potomac Patent Group PLLC  
P.O. Box 855  
McLean, VA 22101  
Tel: 919 677 9591